

8/28/2017 9:45:21 AM  
17CV36753

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

MARK BOWDEN,

Plaintiffs,

vs.

UNITED RENTALS (NORTH AMERICA)  
INC., and GENIE INDUSTRIES  
(A TEREX BRAND) INC.,

Defendants.

No.

PLAINTIFFS'S COMPLAINT FOR  
PRODUCT LIABILITY, NEGLIGENCE  
and REQUEST FOR JURY TRIAL  
ORS 21.160

(Not Subject to Mandatory Arbitration)  
(Claim For \$530,000.00)

**COUNT I**

**PRODUCT LIABILITY**

**(As against All Defendants)**

As and for Plaintiff's First Count for Relief, Plaintiff complains and alleges, as follows:

**1.**

At all times material herein, Defendant, United Rentals (North America) Inc., was and is an active Delaware corporation, licensed to do business in the State of Oregon and conducting such business by way of renting out construction equipment to various companies and individuals.

**2.**

At all times material herein, Defendant, Genie Industries (a Terex Brand) Inc., was and is a Washington corporation, engaged in the manufacturing of equipment, including the self propelled man lift/boom that injured the Plaintiff, as hereinafter alleged.

COMPLAINT FOR PRODUCT LIABILITY  
NEGLECTENCE, and REQUEST FOR  
JURY TRIAL

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## 3.

On or before September 20, 2015, Plaintiff's employer rented a 2013 Genie S-45, 4 x 4 self propelled man lift boom from United Rentals to complete necessary repairs on a ship. The lift was delivered to the Plaintiff's work site in Portland, Oregon by personnel of Defendant, United Rentals.

## 4.

On or about September 20, 2015, Plaintiff was operating the 2013 Genie S-45 when he was violently thrown back and forth inside the man cage at the end of the boom causing the following injuries:

L3 transverse process fracture; L4 transverse process fracture; L4-5 disc herniation; cervical strain/sprain; lumbosacral strain/sprain; right knee sprain; thoracic strain/sprain; right knee acute meniscal tear; and, left shoulder strain/sprain.

## 5.

The above-mentioned 2013 Genie S-45 was dangerously defective in the following particulars:

1. That the man lift causes the operator to be violently thrown about inside the lift cage when:
  - a) the lift is raised off the ground but not enough to breach the horizontal plane;
  - b) the lift drive speed selector is set for level ground (allowing for maximum speed);
  - c) the engine idle selector is set for the hare symbol (allowing the foot switch to activate at high speeds);
  - d) the units steering axle is positioned nearest the platform with the wheels steered to the side; and
  - e) the foot switch is depressed by the operator.
2. That the lift could have and should have been designed to be inoperable when the controls were set as noted above, or at the very least, this configuration of the lift and the controls should have prevented the high speed operation of the lift.
3. That the lift was also dangerously defective in that there were no warnings on the lift or in the operator's manual that warned against the danger of operating the lift

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1 configuration noted above with the controls set as noted above.

2 **6.**

3 By virtue of the negligent acts of the Defendants, the defects alleged above and the  
4 injuries incurred as a result of these defects, Plaintiff has incurred medical expenses in the  
5 approximate sum of \$20,000.00, the exact amount to be determined at trial, which is the  
6 reasonable value of the services rendered, all to Plaintiff's economic damages in the sum of  
7 \$20,000.00.

8 **7.**

9 By virtue of the negligent acts of Defendants, the defects alleged above and the injuries  
10 hereinabove referred to, Plaintiff has suffered the loss of wages in the amount of \$90,000.00, the  
11 exact amount to be determined at trial, all to Plaintiff's economic damage in the sum of  
12 \$90,000.00.

13 **8.**

14 By virtue of the negligent acts of the Defendants, the defects alleged above and the  
15 injuries hereinabove referred to, Plaintiff has suffered a future loss of earnings in the amount of  
16 \$120,000.00, the exact amount to be determined at trial, all to Plaintiff's economic damage in the  
17 sum of \$120,000.00.

18 **9.**

19 By virtue of the negligent acts of the Defendants, the defects alleged above and the+  
20 injuries hereinabove referred to, Plaintiff has suffered pain and agony, and will for the balance of  
21 his life, continue to suffer pain and agony, and will suffer emotional distress, and loss and  
22 interference with his usual and customary lifestyle, entitling Plaintiff to an award of non-  
23 economic damages in the amount of \$300,000.00.

24 **COUNT II**

25 **NEGLIGENCE**

26 **(As against All Defendants)**

27 As and for Plaintiff's Second Count for Relief, negligence, Plaintiff complains and

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1 alleges, as follows:

2 **10.**

3 Plaintiff re-alleges Paragraphs 1 through 9 of Plaintiff's First Count for Relief.

4 **11.**

5 The Defendant, Genie Industries, was negligent in causing Plaintiff's injuries in designing  
6 their lift to have the dangerous defects noted above.

7 **12.**

8 The Defendant, Genie Industries, was further negligent in causing Plaintiff's injuries in  
9 failing to warn users of the dangerous defects of the lift, as noted above.

10 **13.**

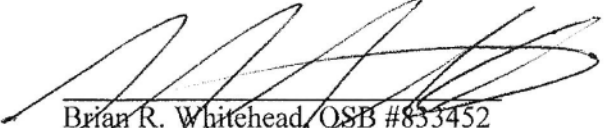
11 The Defendant, United Rentals, was negligent in causing Plaintiff's injuries in that they  
12 knew or should have known of the dangerous defects noted above, and either should have  
13 purchased an alternate product to rent to its customers or warned its customers of the dangerous  
14 defects in the lift.

15 **14.**

16 Plaintiff hereby demand a jury trial.

- 17 1. For economic damages in the following sums:
- 18 a. \$20,000.00 for medical expenses incurred;
- 19 b. \$90,000,000.00 for lost wages;
- 20 c. \$120,000.00 for future loss of earnings;
- 21 2. For non-economic damages for future and past pain, suffering and loss of lifestyle
- 22 in the amount of \$300,000,000.00;
- 23 3. For costs and disbursements incurred herein.

24 DATED this 25<sup>th</sup> day of August, 2017.

25  
26   
27 Brian R. Whitehead, OSB #853452  
Attorney for Plaintiff

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